

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Kum & Go, L.C., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 5189-13, dated September 3, 2013. Kum & Go, L.C., is the owner and operator of the underground storage tanks (USTs) at Kum & Go #963, which is located at 1209 Beech Avenue, Kemmerer, Wyoming. This UST facility is registered with the DEQ as facility #0-002464. The Notice of Violation alleges that Kum & Go, L.C., failed to report and investigate a suspected release when a passing statistical inventory reconciliation (SIR) result could not be obtained for tank 2 for the month of December 2012. This is a violation of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17.

W.S. 35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Kum & Go, L.C., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Wyoming Storage Tank Act of 2007 and WWQRR, Chapter 17.
2. Kum & Go, L.C., committed the following violation of WWQRR, Chapter 17:

Count 1: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(B)]. As the owner and operator of the USTs located at Kum & Go #963, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(B), by failing to report and investigate a suspected release when a passing SIR test result could not be obtained for tank 2 for the month of December 2012.
3. The total penalty for the cited violations shall be one thousand, five hundred dollars (\$1,500.00). Kum & Go, L.C., agrees to pay a total of one thousand, five hundred dollars (\$1,500.00) to the DEQ as a stipulated penalty for the cited violation. Payment of one thousand, five hundred dollars (\$1,500.00) shall be returned with this Settlement Agreement. Payment shall be by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Oma Gilbreth, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.
4. The designated licensed storage tank operator for Kum & Go #963, shall re-take and pass the International Code (ICC) W-6 Exam within ninety (90) days of Kum & Go, L.C.'s signing of this settlement agreement.
5. Kum & Go, L.C.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Kum & Go, L.C., based on the violations alleged in Notice of Violation Docket Number 5189-13. Contingent upon Kum & Go, L.C.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Kum & Go, L.C., for this particular violation.
6. Kum & Go, L.C., waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation Docket Number 5189-13 in the event that Kum & Go, L.C., fails to fulfill its obligations under this Settlement Agreement.
7. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
8. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
9. This Settlement Agreement is binding upon Kum & Go, L.C., and all its successors and assigns and upon the DEQ.
10. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming state law, or any regulation issued by the Department of Environmental Quality, or any federal law or regulation.

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11. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR KUM & GO, L.C.:

Signature: _____

Printed Name: _____

John Feldman
JOHN FELDMAN

12/13/13

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Todd Parfitt,
Director

12/3/2013

Alan Edwards
Alan Edwards
Acting Administrator
Solid and Hazardous Waste Division

Nov. 29, 2013

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